



Commonwealth of Virginia

VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

BLUE RIDGE REGIONAL OFFICE

901 Russell Drive, Salem, Virginia 24153

(540) 562-6700 FAX (804) 698-4178

www.deq.virginia.gov

Matthew J. Strickler
Secretary of Natural Resources

David K. Paylor
Director
(804) 698-4000

Robert J. Weld
Regional Director

**VIRGINIA WASTE MANAGEMENT BOARD
ENFORCEMENT ACTION - ORDER BY CONSENT
ISSUED TO
THE SOUTHERN FINISHING COMPANY, INCORPORATED
EPA ID No. VAD023801210
EPA ID No. VAR000519652**

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code § 10.1-1455, between the Virginia Waste Management Board and the Southern Finishing Company, Incorporated for the purpose of resolving certain violations of the Virginia Waste Management Act and the applicable regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Board" means the Virginia Waste Management Board, a permanent citizens' board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and -1401.
2. "BRRO" means the Blue Ridge Regional Office of DEQ, located in Salem, Virginia.
3. "CFR" means the Code of Federal Regulations, as incorporated into the Regulations.
4. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.

5. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.
6. "Facility" means the SFC facilities located at 801 E. Church Street and at 420 E. Commonwealth Blvd. in Martinsville, Virginia.
7. "Generator" means person who is a hazardous waste generator, as defined by 40 CFR § 260.10.
8. "Hazardous Waste" or "HW" means any solid waste meeting the definition and criteria provided in 40 CFR § 261.3.
9. "LQG" means large quantity generator, a hazardous waste generator that generates 1000 kilograms (2200 pounds) or greater of hazardous waste in a calendar month and meets other restrictions. *See* 40 CFR § 262.34(a)-(b) and (g)-(l).
10. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 10.1-1455.
11. "Order" means this document, also known as a "Consent Order" or "Order by Consent,".
12. "Regulations" or "VHWMR" means the Virginia Hazardous Waste Management Regulations, 9 VAC 20-60-12 *et seq.* Sections 20-60-14, -124, -260 through -266, -268, -270, -273, and -279 of the VHWMR incorporate by reference corresponding parts and sections of the federal Code of Federal Regulations (CFR), with the effected date as stated in 9 VAC 20-60-18, and with independent requirements, changes, and exceptions as noted. In this Order, when reference is made to a part or section of the CFR, unless otherwise specified, it means that part or section of the CFR as incorporated by the corresponding section of the VHWMR. Citations to independent Virginia requirements are made directly to the VHWMR.
13. "SFC" means The Southern Finishing Company, Incorporated, a corporation authorized to do business in Virginia and its affiliates, partners, and subsidiaries. SFC is a "person" within the meaning of Va. Code § 10.1-1300.
14. "Solid Waste" means any discarded material meeting the definition provided in 40 CFR § 261.2.
15. "Va. Code" means the Code of Virginia (1950), as amended.
16. "VAC" means the Virginia Administrative Code.
17. "Virginia Waste Management Act" or "VWMA" means Chapter 14 (§ 10.1-1400 *et seq.*) of Title 10.1 of the Va. Code. Article 4 (Va. Code §§ 10.1-1426 through 10.1-1429) of the Virginia Waste Management Act addresses Hazardous Waste Management.

SECTION C: Findings of Fact and Conclusions of Law

1. SFC owns and operates the Facility at 801 East Church Street and 420A Commonwealth Blvd. in Martinsville, Virginia. SFC previously notified as a LQG and was assigned EPA ID Nos. VAD023801210 & VAR000519652.
2. At the Facility, the SFC generates hazardous waste in the form of waste paint & solvent (D001, D035, F003, F005), catalyst waste (D001, D035, F003, F005) and punctured aerosol can residue (D001). Regulated wastes generated at the Facility include excluded solvent contaminated wipes, water based coatings, used oil, spent paint booth filters, fly ash and boiler ash. Universal waste generated include spent fluorescent lamps (silver and green tipped).
3. On October 10, 2019 and October 15, 2019 Department staff inspected the Facility for compliance with the requirements of the VWMA and the Regulations. Based on the inspections and follow-up information, Department staff made the following observations.
4. At the time of the October 10, 2019 inspection, Department staff observed finished scrap wood being fed into the chipper unit in order to fuel the two wood-fired boilers. The finished scrap wood appeared to be painted, stained, sealed and/or finished with lacquer clear coat. 9 VAC 20-81-40 prohibits the disposal, treatment, or storage of solid waste without a permit from the director.
5. The boiler ash is disposed of as solid waste approximately every six months based on generator knowledge. Based on Department staff's observations of finished wood products in the chipper (as noted in Paragraph 4, above), it appears that SFC has not considered the stains, sealers, lacquers and/or clear coat on the finished wood contributing to the boiler ash when making a hazardous waste determination as required by 40 CFR 262.11.
6. At the time of the inspections, SFC operated 5-gallon satellite accumulation areas (SAAs) at each of the hand spray booths, paint lines, and in the mixing room present on-site. The SAA containers were either labeled with the words "Solvent Waste" or not labeled at all. 40 CFR 262.15 (a)(5)(i) states that a generator may accumulate as much as 55 gallons of non-acute hazardous waste in containers at or near any point of generation where wastes initially accumulate provided that a generator mark or label its container with the words "Hazardous Waste". Following receipt of the 12/11/2019 NOV, SFC properly labeled the containers and the Department requires no further action for this item.
7. At the time of the inspections, none of the 5-gallon SAA containers present in Plant 12 or Plant 15 were labeled with an indication of the hazards of their contents. 40 CFR 262.15 (a)(5)(ii) states that a generator may accumulate as much as 55 gallons of non-acute hazardous waste in containers at or near any point of generation where wastes initially

accumulate provided that a generator mark or label its container with an indication of the hazards of the contents. Following receipt of the 12/11/2019 NOV, SFC properly labeled the containers and the Department requires no further action for this item.

8. SFC generates excluded solvent contaminated wipes that are picked up weekly and laundered by a laundry service. These wipes are accumulated in 5-gallon containers throughout the Facility and consolidated in 55-gallon containers located under a covering outside of the main plant. At the time of the inspection, one of the 55-gallon containers was open with no lid and crushed on one side. 40 CFR 261.4(a)(26)(i) states that solvent-contaminated wipes that are sent for cleaning and reuse are not solid wastes from the point of generation, provided that the solvent-contaminated wipes, when accumulated, stored, and transported, are contained in non-leaking, closed containers that are labeled "Excluded Solvent-Contaminated Wipes." On October 23, 2019, SFC representatives submitted to the Department via email photographs of the rag consolidation area demonstrating that the crushed open top container and the wipes accumulating on the ground had been removed and the Department requires no further action for this item.
9. The areas where solvent contaminated wipes are accumulated was observed at both plants. At Plant 12, Department staff noted that several wipes had fallen out of the damaged container discussed in Paragraph 8 and were accumulating on the ground. The damaged container did not meet DOT transportation requirements and the SFC representatives were unsure how long the solvent contaminated wipes had been accumulating on-site. None of the containers were dated with an accumulation start date. At the time of the inspection, SFC was unable to provide required documentation for Plant 12 or Plant 15 demonstrating that the excluded solvent contaminated wipes present on-site had been accumulating for less than 180 days. 40 CFR 261.4(a)(26)(ii) states that solvent-contaminated wipes may be accumulated by the generator for up to 180 days from the start date of accumulation for each container prior to being sent for cleaning and 40 CFR 261.4(a)(26)(v)(B) states that solvent-contaminated wipes that are sent for cleaning and reuse are not solid wastes from the point of generation, provided that generators maintain at their site documentation that the 180-day accumulation time limit in 40 CFR 261.4(a)(26)(ii) is being met. Following receipt of the 12/11/2019 NOV, SFC properly labeled the containers and the Department requires no further action for this item.
10. 40 CFR 261.4(a)(26)(i) states that solvent-contaminated wipes that are sent for cleaning and reuse are not solid wastes from the point of generation, provided that the solvent-contaminated wipes, when accumulated, stored, and transported, are contained in non-leaking, closed containers that are labeled "Excluded Solvent-Contaminated Wipes." At the time of the inspection, the 5-gallon containers used to store excluded solvent contaminated wipes in Plants 12 and 15; and at least two of the 55-gallon consolidation containers of excluded solvent contaminated wipes present at both Facility locations were not labeled as required. Following receipt of the 12/11/2019 NOV, SFC properly labeled the containers and the Department requires no further action for this item.

11. 40 CFR 262.256(b) requires that the large quantity generator shall maintain records documenting the arrangements with the local fire department as well as any other organization necessary to respond to an emergency. This documentation must include documentation in the operating record that either confirms such arrangements actively exist or, in cases where no arrangements exist, confirms that attempts to make such arrangements were made. At the time of the inspection, the Facility was not able to provide records documenting agreements with relevant local emergency response authorities. On 12/17/2019, SFC revised its plan and submitted to authorities. No further action required by the Department.
12. 40 CFR 262.17(a)(1)(ii) states that a large quantity generator may accumulate hazardous waste on site without a permit or interim status, and without complying with the requirements of parts 124, 264 through 267, and 270 of this chapter, or the notification requirements of section 3010 of RCRA, provided that if a container holding hazardous waste is not in good condition, or if it begins to leak, the large quantity generator must immediately transfer the hazardous waste from this container to a container that is in good condition, or immediately manage the waste in some other way that complies with the conditions for exemption of this section. SFC operates an uncovered outdoor central accumulation area ("CAA") within a concrete berm at Plant 15. At the time of the inspection, six 55-gallon solvent and paint waste containers were accumulating within the central accumulation area. The lids of at least two of the containers were bulging. The Facility had not addressed the condition of these containers as required. The Facility should evaluate the manner in which this waste is stored and consider either relocating or adding protective measures to the current CAA to reduce the potential for containers to pressurize.
13. SFC generates used oil as the result of compressor maintenance activities. At the time of the inspection, there were three 55-gallon containers of used oil present in the compressor room and the containers were not labeled as required. 40 CFR 279.22(c)(1) requires that containers and aboveground tanks used to store used oil at generator facilities must be labeled or marked clearly with the words "Used Oil." Following receipt of the 12/11/2019 NOV, SFC properly labeled the containers and the Department requires no further action for this item.
14. On December 11, 2019, the Department issued NOV No. NOV-19-11-BRRO-001 to SFC for the violations listed in paragraph C(4) through C(13) above and SFC responded to the NOV, as requested, on December 19, 2019.
15. Based on the results of the October 10, 2019 and October 15, 2019 inspection, the Board concludes that SFC has violated 9 VAC 20-81-40, 40 CFR 262.11, 40 CFR 262.15 (a)(5)(i), 40 CFR 262.15 (a)(5)(ii), 40 CFR 261.4(a)(26)(i), 40 CFR 261.4(a)(26)(ii), 40 CFR 261.4(a)(26)(v)(B), 40 CFR 262.256(b), 40 CFR 262.17(a)(1)(ii) and 40 CFR 279.22(c)(1), as described in paragraph C(4) through C(13), above.
16. SFC submitted documentation that verifies the violations described in paragraphs C(6) through C(11) and C(13) above, have been corrected.

17. In order for SFC to complete its return to compliance, Department staff and representatives of SFC have agreed to the Schedule of Compliance, which is incorporated as Appendix A of this Order.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code §10.1-1455, the Board orders SFC, and SFC agrees to:

1. Perform the actions described in Appendix A of this Order; and
2. Pay a civil charge of **\$29,165** in settlement of the violations cited in this Order. The civil charge payment shall be paid in accordance with the following schedule:

Due Date	Amount
November 1, 2021	\$7,291.25 or balance
February 1, 2022	\$7,291.25 or balance
May 1, 2022	\$7,291.25 or balance
August 1, 2022	\$7,291.25 or balance

If the Department fails to receive a civil charge payment pursuant to the schedule described above, the payment shall be deemed late. If any payment is late by 30 days or more, the entire remaining balance of the civil charge shall become immediately due and owing under this Order and the Department may demand in writing full payment by SFC. Within 15 days of receipt of such letter, SFC shall pay the remaining balance of the civil charge. Any acceptance by the Department of a late payment or of any payment of less than the remaining balance shall not act as a waiver of the acceleration of the remaining balance under this Order.

All payments shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," and delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 1104
Richmond, Virginia 23218

SFC shall include its Federal Employer Identification Number (FEIN) with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Environmental Emergency Response Fund (VEERF). If the Department has to refer collection of moneys due under this Order to the Department of Law, SFC shall be liable for attorneys' fees of 30% of the amount outstanding.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend this Order with the consent of SFC for good cause shown by SFC, or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.
2. This Order addresses and resolves only those violations specifically identified in Section C of this Order. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce the Order.
3. For purposes of this Order and subsequent actions with respect to this Order only, SFC admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. SFC consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. SFC declares it has received fair and due process under the Administrative Process Act and the Virginia Waste Management Act and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to modify, rewrite, amend, or enforce this Order.
6. Failure by SFC to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. SFC shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other unforeseeable circumstances beyond its control and not due to a lack of good faith or diligence on its part. SFC shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. SFC shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:

- a. the reasons for the delay or noncompliance;
- b. the projected duration of any such delay or noncompliance;
- c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
- d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto and any successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and SFC.
11. This Order shall continue in effect until:
 - a. The Director or his designee terminates the Order after SFC has completed all of the requirements of the Order;
 - b. SFC petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
 - c. the Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to SFC.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve SFC from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. Any plans, reports, schedules or specifications attached hereto or submitted by SFC and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.
13. The undersigned representative of SFC certifies that he or she is a responsible official authorized to enter into the terms and conditions of this Order and to execute and legally bind SFC to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of SFC.

Consent Order

The Southern Finishing Company, Incorporated; EPA ID Nos. VAD023801210 & VAR000519652

Page 9 of 10

15. By its signature below, SFC voluntarily agrees to the issuance of this Order.

And it is so ORDERED this _____ day of _____, 2021.

Robert J. Weld, Regional Director
Department of Environmental Quality

The Southern Finishing Company, Incorporated voluntarily agrees to the issuance of this Order.

Date: 9/15/21 By: [Signature]
Mr. Chris Kester
Vice President of Operations
The Southern Finishing Company, Incorporated

State of North Carolina
City/County of Rockingham

The foregoing document was signed and acknowledged before me this 15th day of September, 2021, by Mr. Chris Kester who is Vice President of Operations for The Southern Finishing Company, Incorporated, on behalf of the corporation.

[Signature]
Notary Public



Registration No.

My commission expires: Nov. 14, 2025
Notary seal:

APPENDIX A SCHEDULE OF COMPLIANCE

SFC shall:

1. Develop a plan to minimize the presence of finished scrap wood being fed into the chipper unit used to fuel the boilers. "Finished scrap wood" may include but is not limited to finished wood that has been painted, stained, sealed and/or finished with lacquer clear coat. The plan should include a modification to SFC's new employee training program as well as its annual refresher training program. An approvable plan shall be submitted to the Department no later than 30 days from the effective date of the Order for review and approval by the Department.
2. No later than 45 days from the effective date of the Order, develop a plan to address the exposure of containers to weather elements in the outdoor storage area that may result in damage to containers as observed during the inspections. The plan shall be submitted to the Department for review and approval.
3. Respond to any Department notices of deficiency with respect Items #1 - #3, above, in accordance with the notice.
4. Unless otherwise specified in this Order, SFC shall submit all requirements of Appendix A of this Order to:

Jerry Ford, Jr.
VA DEQ - Blue Ridge Regional Office
901 Russell Drive
Salem, VA 24153
Phone: (540) 562-6817
e-mail: Jerry.Ford@deq.virginia.gov